



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Public Entertainment Establishments

PUBLIC HEARING DATES

Planning Commission

February 23, 2012 at 8:15 p.m.

Board of Supervisors

March 6, 2012 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

January 24, 2012

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STAFF COMMENT

The proposed amendment is on the 2011 Zoning Ordinance Amendment Work Program and is in response to a request by the Board of Supervisors (Board) to address certain uses that are initially approved as eating establishments, but function primarily as entertainment venues catering to adult customers without appropriate controls. The proposed amendment revises the definition of an eating establishment and provides a new definition of a public entertainment establishment that allows for a distinction to be drawn between a use that functions primarily as an eating establishment and a use that primarily offers entertainment for adults.

Current Zoning Ordinance Provisions

Under current Zoning Ordinance regulations, eating establishments are permitted by right in the C-5 through C-9 Districts; by Category 5 special exception approval in the C-2 through C-4 and in the I-2 through I-6 Districts; as an accessory service use in the I-I District; and in P districts when represented on an approved development plan.

Under the current eating establishment definition, entertainment which is provided for the enjoyment of patrons is allowed as an accessory component to an eating establishment, to include dancing, provided the space available for such dancing does not exceed one-eighth (1/8) of the floor area available for dining. Other forms of entertainment, such as billiard/pool tables, karaoke, and hookah, may be permitted as accessory to the principal eating establishment use; however, an accessory use, as defined in the Zoning Ordinance, must be subordinate in purpose, area or extent to the principal use served and must be clearly subordinate to, customarily found in association with, and serves a principal use.

Additionally, under the Zoning Ordinance definition of theatre, a dinner theatre is deemed to be an eating establishment and establishments such as the Waterford, that provide venues to be rented for private banquets and/or receptions, are currently deemed to be an eating establishment and may locate in the same zoning districts as eating establishments.

Dancing and other entertainment activities that function as a principal use are subject to approval of a Group 5 Commercial Recreation special permit by the Board of Zoning Appeals (BZA). Under the current Zoning Ordinance, billiard/pool halls, and dance halls are specifically designated as Group 5 special permit uses, but uses such as karaoke and hookah are not specifically designated but fall under the Group 5 heading of “indoor firing ranges, archery ranges, fencing and other similar indoor recreation uses”. From an enforcement standpoint this has caused some difficulty in trying to explain to the operator of a karaoke or hookah use that their use falls under the indoor firing range designation.

Background

Over the last few years, many businesses, approved as eating establishments, are operating primarily as entertainment establishments. Although such businesses must offer some food items to customers in order to meet Virginia Alcoholic Beverage Control regulations, it has often been observed that the entertainment activities such as dancing, billiards, hookah, and karaoke, either individually or some

combination thereof, eclipse dining as the principal reason customers patronize these establishments. It has become apparent that more and more businesses that have been issued permits to operate as eating establishments are conducting activities that go beyond what is permitted as accessory to an eating establishment. When an eating establishment increases its entertainment activities beyond a point of being accessory, such use must be recognized for the principal entertainment use that it is and regulated accordingly.

With regard to eating establishments with dancing, which has been particularly problematic from an enforcement standpoint over the last few years, it is noted that in 1975, the Zoning Ordinance eating establishment definition was amended to allow a dance floor as an accessory component, which could be up to 1/8 of the size of the dining area. At that time and until fairly recently, 1/8 of the dining area resulted in a small dance floor that was truly accessory to the eating establishment. However, over the past few years, the size of certain establishments have increased to the point where 1/8 of the dining area results in a dance floor of a size that can no longer be considered accessory or incidental to the principal use, but rather it becomes a principal use in and of itself. In the majority of these cases complaints were filed alleging that the use was really not functioning as an eating establishment, but rather as a night club or dance club and, therefore, not operating in accordance with the Zoning Ordinance. This has caused staff to take a closer look at the appropriateness of allowing a dance floor over a certain size in association with an eating establishment as it has become apparent that many of these uses were circumventing the need to obtain a special permit for a recreation/dance hall use by locating in fairly large spaces and obtaining an accessory dance permit in accordance with Chapter 27 of the County Code.

In accordance with the eating establishment definition, it is staff's position that the dance floor size of 1/8 of the dining area represents the upper most size limit rather than a size guarantee. Staff in prior years reviewed each dance floor request on a case by case basis, but only to ensure that the maximum 1/8 size limitation was not exceeded. However, over the last few years given the issues associated with larger dance floors, each dance permit request is evaluated with consideration given to the size of the establishment, layout and the type and size of other entertainment uses proposed. Staff had been imposing greater restrictions on the size of accessory dance floors and experience has proven that anything larger than a 150 square foot dance floor has resulted in the "eating establishment" functioning more similar to a recreation/dance hall use than an eating establishment. Based on staff research, the standard applied for sizing a dance floor is approximately 3 to 5 square feet per person, depending on the type of dance. Assuming that 3 to 4 square feet per person is the norm, than a 150 square foot dance floor could accommodate 38 to 50 patrons. It is staff's position that a dance floor of 150 square feet is the upper size limit which should be viewed as accessory. As a result, staff has imposed the standard of 150 square feet or 1/8 of the dining area, whichever results in a lesser area, to be the more appropriate limit to ensure that the dance component is truly accessory to the eating establishment. With regards to billiards, the standard size billiard/pool table requires approximately 250 square feet of space for the pool table and the area needed for players to move around the table. As a result, over the last six years it has been staff's position that no more than 2 billiard tables may be allowed as an accessory component to an eating establishment, based on the specifics of the particular use. Staff believes it appropriate to codify this practice by limiting the upper most number of billiard tables that may be permitted as accessory to no more than 2 tables.

There are a variety of impacts associated with businesses that provide entertainment activities for adults as a principal use that are not commonly found in association with eating establishments. Included among them is noise, site congestion, and loitering of patrons in parking lots and sidewalks outside of buildings that are typically not screened from the view of adjacent properties. Neighboring properties can be impacted by increased vehicular traffic and by spill-over parking. Additionally, such establishments can require extensive outdoor lighting for parking and building security and for the safety and convenience of their customers and employees, but the additional lighting can also negatively impact adjacent properties. Staff has also observed that businesses that provide activities such as dancing, music performance, billiards or karaoke often attract crowds that surpass permitted occupancy limits. Such violations require increased involvement of both police and fire officials to ensure adequate safety for patrons and employees. Given the adverse impacts of entertainment/night club uses, it appears appropriate to require that such businesses receive additional review and scrutiny as a special exception use.

As noted above, under the definition for theatre, a dinner theatre is deemed an eating establishment. While staff is aware of only one dinner theatre operating in the County, this raises the question of whether it is appropriate for a use that combines entertainment and dining to be allowed by right in commercial districts that allow eating establishments by right. Staff believes that it would be impractical to differentiate between forms of theatrical or musical entertainment that might be combined with dining for the purpose of determining if a certain combination of dining and entertainment should be regulated as an eating establishment or as a public entertainment establishment. Therefore, staff believes that a dinner theatre should be a public entertainment establishment and subject to special exception approval. This approach is consistent with the approval processes required by Arlington County and the City of Alexandria for establishments that combine dining and entertainment. For example, the Birchmere in the City of Alexandria operates under a special use permit that is subject to use limitations. In Arlington County, IOTA, another business that combines dining and music entertainment, has been operating since 1993 under special exception approval.

Proposed Amendment

The proposed amendment revises the current eating establishment definition to clarify the amount and type of entertainment activity that may be permitted as accessory to an eating establishment use. The amendment establishes a new “public entertainment establishment” use subject to a Category 5 special exception approval to more appropriately classify a business that operates primarily as a place offering public entertainment, to include such activities as dancing, billiards, hookah and karaoke. The amendment provides a new banquet/reception use to provide a clear distinction between these facilities and an eating establishment and revises the theatre definition to further qualify that a theatre include fixed audience seating and to state that a dinner theatre shall be deemed a public entertainment establishment rather than an eating establishment. In addition, the amendment incorporates a new hookah establishment use which is defined as “a business consisting of on-premise smoking of tobacco or other legal substances through one or more pipes (commonly known as a hookah, waterpipe, shisha or narghile) designed with a tube passing through an urn of water that cools the smoke as it is drawn through it.” The definition has been added to define this activity which has recently become more prevalent in the County and to clarify that a hookah establishment is deemed to be a public entertainment establishment.

The eating establishment definition is revised to clarify that entertainment provided for the enjoyment of the patrons is only allowed if clearly accessory and incidental to the principal dining function. That the space made available for dancing shall not exceed the lesser of 150 square feet or 1/8 of that part of the area available for dining. That one billiard table may be considered accessory for any sized eating establishment, and that a maximum of 2 tables may only be considered if the dining area is 4000 square feet or greater in size. Additionally, it is recommended that given the amount of floor area needed to accommodate a dance floor and billiards, that in no event shall the combination of dancing and billiards be deemed accessory. Other forms of public entertainment, such as darts, karaoke and hookah, may be permitted if they are deemed accessory and incidental by the Zoning Administrator and as defined by the Zoning Ordinance. In order to facilitate this determination, the submission of a dimensioned floor plan is required prior to the issuance of a Non-Residential Use Permit (occupancy permit) for an eating establishment which shows the number and location of seats, tables and counter/bar areas; the types and locations of accessory entertainment uses; and the location of kitchen, employee and other public areas.

As mentioned above, staff is aware of two Waterford locations both in the C-7 District that provide facilities for wedding receptions and other similar private events and these uses have been permitted as eating establishments. This type of business is distinguishable from a public entertainment establishment in that the events held at such places are most similar to banquet and/or reception facilities associated with hotels. Given that the characteristics of this use are more aligned with a hotel's banquet/reception facilities rather than those of an eating establishment, staff believes that it would be appropriate to distinguish this use as a separate banquet/reception hall use and recommends permitting this use in the same commercial retail districts and P districts in which hotels/motels are currently allowed. In the commercial retail districts hotels/motels are permitted by right in the C-7, C-8 and C-9 Districts and in the C-6 District upon approval of a Category 5 special exception use; and in the PDC, PRC, PRM and PTC when shown on an approved development plan. As a Category 5 special exception use a hotel is subject to an application fee of \$16,375. Staff recommends that the banquet/reception hall use be similarly regulated, and when permitted by special exception that it also be a Category 5 use with a \$16,375 fee.

The proposed public entertainment establishment definition identifies the use as an establishment that is open to the general public wherein the primary occupation is to provide entertainment, such as dancing, billiards/pool, karaoke, hookah and other similar entertainment to adult customers. As proposed, public entertainment establishments would be permitted in the C-6, C-7, C-8 and C-9 Districts as a Category 5 special exception upon approval by the Board. In addition, public entertainment establishments may be allowed in the PDC, PRC, PRM and PTC Districts when specifically depicted on an approved development plan and otherwise by special exception approval.

As previously noted, many entertainment uses that currently require the approval of a Group 5 commercial recreation special permit by the BZA would now become a Category 5 special exception use requiring approval by the Board. The current application fee for a Group 5 special permit is \$16,375 and all Category 5 special exception uses also have an application filing fee of \$16,375. The new Category 5 special exception public entertainment establishments would also have an application fee of \$16,375 and it is believed to be appropriate as it is consistent with other commercial recreation and Category 5 special exception uses.

All public entertainment establishments and those banquet/reception halls in the C-6 District would be subject to the general standards set forth in Sect. 9-006 of the Zoning Ordinance that apply to all special exceptions. Among others, the general standards require that the use be in harmony with the general purpose and intent of the applicable zoning district regulations; be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan; and that the pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

Public entertainment establishments would also be subject to the additional standards contained in a new Sect. 9-534. The proposed additional standards are designed to protect adjacent properties from impacts due to noise, spill-over parking and other such neighborhood disturbances. Under these additional standards the Board may impose conditions and restrictions that it deems necessary to mitigate negative impacts, that may include but not limited to, hours of operation and other operational characteristics, site development or design standards, transitional screening and landscaping requirements, amount and location of parking, limitations on signs and outdoor lighting, noise mitigation and the amount and type of outdoor activity. In order to facilitate the review of a public entertainment establishment special exception application by staff, the Planning Commission and Board, a floor plan with dimensions must be submitted with the application which shows the type and location of the entertainment activity; the number and location of seats, tables and counter/bar areas; and the location of kitchen, employee and other public areas.

The proposed amendment also incorporates the new public entertainment establishment and banquet/reception hall uses in the Airport Noise Compatibility Table in Article 7, and sets forth the minimum parking requirements in Article 11 and the landscaping/screening requirements in the Transitional Screening and Barrier Matrix in Article 13. Public entertainment establishments located within a shopping center would be parked at the public entertainment establishment parking rate and not at the shopping center rate. This approach will help to ensure that adequate parking is provided when such uses are provided in shopping centers.

Summary

Staff believes that the proposed amendment effectively reduces the negative impacts associated with public entertainment establishments and provides a clear distinction between uses that are operated for different purposes. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of January 24, 2012 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the eating establishment and theatre definitions, and adding the new public entertainment establishment, banquet/reception hall and hookah establishment definitions in their proper alphabetical sequence to read as follows:

BANQUET/RECEPTION HALL: Any establishment operated for profit wherein the facilities are leased on a temporary basis for private wedding receptions, meetings, banquets, and other similar events. Such establishments shall not be open to the general public and may include food preparation facilities and areas for dancing, dining and other entertainment activities customarily found in association with banquets or receptions.

Off-site catering services may be permitted as an accessory use.

EATING ESTABLISHMENT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in a state ready for consumption within the establishment, and whose design and principal method of operation includes both of the following characteristics:

1. Customers are provided with an individual menu and are served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
2. The food, frozen desserts, or beverages are served on nondisposable plates or containers and nondisposable eating utensils are provided. Customers are not expected to clear their table or dispose of their trash.

Notwithstanding the above, a cafeteria where food, frozen desserts, or beverages are: (a) generally consumed within the establishment; and (b) served on nondisposable plates or containers, and nondisposable eating utensils are provided shall be deemed an eating establishment.

An eating establishment may provide carry-out service, provided that such carry-out service is clearly not the principal business of such establishment. For the purpose of this Ordinance, a fast food restaurant shall not be deemed an eating establishment. In addition, an eating establishment shall not be deemed to include a snack bar or refreshment stand at a public or non-private recreation facility which is operated solely by the agency or group operating the recreation facility for the convenience of the patrons of the facility.

Entertainment ~~which is~~ provided for the enjoyment of the patrons that is deemed by the Zoning Administrator as accessory and incidental to the principal dining function may be permitted. However, in no event shall the combination of dancing and billiard/pool tables be allowed, and if individually provided (a) the space made available for dancing shall not exceed the lesser of 150 square feet or one-eighth (1/8) of the floor area available for dining; or (b) one billiard/pool table may be permitted in a dining area containing up to 4000 square feet and up to 2 billiard/pool tables may be permitted for a dining area containing 4000 square feet or greater ~~shall be considered accessory to an eating establishment, to include dancing by patrons, provided the space made available for such dancing shall not be more than one eighth (1/8) of that part of the floor area available for dining.~~ Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code.

PUBLIC ENTERTAINMENT ESTABLISHMENT: An establishment which is open to the general public wherein the occupation is to primarily provide entertainment to adult customers to include such activities as dancing, billiards/pool, karaoke, hookah, and other similar entertainment activities. Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code. For the purpose of this Ordinance, a public entertainment establishment shall not be deemed to include an EATING ESTABLISHMENT, BANQUET/RECEPTION HALL, COMMERCIAL RECREATION RESTAURANT, COMMERCIAL NUDITY ESTABLISHMENT, COUNTRY CLUB, CULTURAL CENTER, PRIVATE CLUB/PUBLIC BENEFIT ASSOCIATION or THEATRE.

The sale of food, frozen desserts, or beverages in a state ready for consumption within the public entertainment establishment may be permitted as an accessory use.

HOOKAH ESTABLISHMENT: A business consisting of on-premise smoking of tobacco or other legal substances through one or more pipes (commonly known as a hookah, waterpipe, shisha or narghile) designed with a tube passing through an urn of water that cools the smoke as it is drawn through it. For purposes of this Ordinance, a hookah establishment shall be deemed a PUBLIC ENTERTAINMENT ESTABLISHMENT.

THEATRE: A building or structure designed for the enactment of ~~dramatic~~ live performances and/or showing of motion pictures in which fixed audience seating is provided. For the purpose of this Ordinance, a dinner theatre shall be deemed an PUBLIC ENTERTAINMENT ESTABLISHMENT ~~EATING ESTABLISHMENT~~, and a drive-in motion picture theatre and an adult mini motion picture theatre shall be deemed separate and distinct uses.

Amend Article 4, Commercial District Regulations, as follows:

- **Amend the C-5 Neighborhood Retail Commercial District, Sect. 4-503, Special Permit Uses, by deleting Par. 3A and relettering the subsequent paragraphs accordingly.**

3. Group 5 – Commercial Recreation Uses, limited to:

- A. ~~Billiard and pool halls~~

- **Amend the C-6 Community Retail Commercial District as follows:**

- **Amend Sect. 4-603, Special Permit Uses, by deleting Paragraphs 3A and 3D, and relettering the subsequent paragraphs accordingly.**

3. Group 5 – Commercial Recreation Uses, limited to:

~~A. Billiard and pool halls~~

~~D. Dance halls~~

- **Amend Section 4-604, Special Exception Uses, by adding new Paragraphs 4B and 4P to read as follows and relettering the subsequent paragraphs accordingly.**

4. Category 5 – Commercial and Industrial Uses of Special Impact, limited to:

B. Banquet/Reception halls

P. Public entertainment establishments

- **Amend the C-7, C-8 and C-9 Districts as follows:**

- **Amend Sections 4-702, 4-802 and 4-902, Permitted Uses, by adding a new Par. 3 to read as follows, and renumbering the subsequent paragraphs accordingly.**

3. Banquet/Reception halls.

- **Amend Sections 4-703, 4-803 and 4-903, Special Permit Uses, by deleting Paragraphs 3A and 3D from Sections 4-703 and 4-803, deleting Paragraphs 3A and 3E from Sect. 4-903, and relettering the subsequent paragraphs accordingly.**

3. Group 5 – Commercial Recreation Uses, limited to:

~~A. Billiard and pool halls~~

~~D. or E. Dance halls~~

- **Amend Sections 4-704, 4-804 and 4-904, Special Exception Uses, by adding a new Par. 4P to Sections 4-704 and 4-804 and a new Par. 4L to Sect. 4-904 to read as follows, and relettering the subsequent paragraphs accordingly.**

4. Category 5 – Commercial and industrial Uses of Special Impact, limited to:

P. or L. Public entertainment establishments

Amend Article 6, Planned Development District Regulations, as follows:

- 1
2 - **Amend the PDH Planned Development Housing District, Sect. 6-103, Secondary Uses Permitted, by deleting Par. 5A and relettering the subsequent paragraphs accordingly.**

3
4
5 The following secondary uses shall be permitted only in a PDH District which contains one or
6 more principal uses; only when such uses are presented on an approved final development
7 plan prepared in accordance with the provisions of Article 16; and subject to the use
8 limitations set forth in Sect. 106 below.

- 9
10 5. Commercial recreation uses (Group 5), limited to:

11
12 ~~A. Billiard and pool halls~~

- 13
14 - **Amend the PDC Planned Development Commercial District, as follows:**

- 15
16 - **Amend Sect. 6-202, Principal Uses Permitted, by adding a new Par. 1 to read as follows and renumbering the subsequent paragraphs accordingly;**

17
18
19 The following principal uses shall be permitted subject to the approval of a final
20 development plan prepared in accordance with the provisions of Article 16, and subject
21 to the use limitations set forth in Sect. 206 below.

- 22
23 1. Banquet/Reception halls.

- 24
25 - **Amend Sect. 6-203, Secondary Uses Permitted, by adding a new Par. 4K to read as follows, deleting Par. 5A, and relettering the subsequent paragraphs accordingly.**

26
27
28
29 The following secondary uses shall be permitted only in a PDC District which contains
30 one or more principal uses; only when such uses are presented on an approved final
31 development plan prepared in accordance with the provisions of Article 16; and subject
32 to the use limitations set forth in Sect. 206 below.

- 33
34 4. Commercial and industrial uses of special impact (Category 5), limited to:

35
36 K. Public entertainment establishments, limited by the provisions of Sect. 206
37 below

- 38
39 5. Commercial recreation uses (Group 5), limited to:

40
41 ~~A. Billiard and pool halls~~

- 42
43 - **Amend Sect. 6-206, Use Limitations, by adding a new Par. 16 to read as follows:**

44

1 16. A public entertainment establishment shall only be permitted when specifically
 2 identified on an approved development plan and shall be subject to the provisions
 3 of Sect. 9-534.
 4

5 - **Amend the PRC Planned Residential Community District, as follows:**
 6

7 - **Amend Sect. 6-302, Permitted Uses, as follows:**
 8

9 - **Amend Par. C (Village Center), by adding a new Par. C (3)(i) to read as**
 10 **follows, deleting Paragraphs C(4)(a) and C(4)(d), and relettering the**
 11 **subsequent paragraphs accordingly.**
 12

13 C. The following uses are permitted in those locations approved for a Village
 14 Center which should be a central location for activity of retail, community
 15 and leisure uses on a scale serving a number of neighborhoods. A village
 16 center should be easily accessible to both vehicles and pedestrians. Within
 17 such a center, the primary emphasis should be on the pedestrian circulation
 18 system. A village center should contain uses such as professional offices,
 19 a supermarket, a hardware store, specialty shops and other uses as listed
 20 below.
 21

22 (3) Commercial and industrial uses of special impact (Category 5),
 23 limited to:

24 (i) Public entertainment establishments, limited by the provisions
 25 of Sect. 305 below
 26

27 (4) Commercial recreation uses (Group 5), limited to:

28 (a) ~~Billiard and pool halls~~
 29

30 (d) ~~Dance halls~~
 31

32 - **Amend Par. E (Convention/Conference Center), by adding a new Par. E (2)**
 33 **and a new Par. E(4)(f) to read as follows and relettering/renumbering the**
 34 **subsequent paragraphs accordingly.**
 35

36 E. The following uses are permitted in those locations approved for a
 37 Convention/Conference Center, which should have the facilities to
 38 accommodate conventions or large meetings and retail or commercial
 39 establishments necessary to serve the people using such facilities and any
 40 residents of the Center.
 41

42 (2) Banquet/Reception halls.
 43
 44
 45

(34) Commercial and industrial uses of special impact (Category 5), limited to:

(f) Public entertainment establishments, limited by the provisions of Sect. 305 below

- **Amend Sect. 6-305, Use Limitations, by adding a new Par. 14 to read as follows:**

14. A public entertainment establishment shall only be permitted when specifically identified on an approved development plan and shall be subject to the provisions of Sect. 9-534.

- **Amend the PRM Planned Residential Mixed Use District as follows:**

- **Amend Sect. 6-403, Secondary Uses Permitted, by adding new Paragraphs 4 and 6B, deleting Par. 7A and renumbering/relettering the subsequent paragraphs accordingly.**

The following secondary uses shall be permitted only in a PRM District which contains one or more principal uses; only when such uses are presented on an approved final development plan prepared in accordance with the provisions of Article 16; and subject to the use limitations set forth in Sect. 406 below.

4. Banquet/Reception halls.

56. Commercial and industrial uses of special impact (Category 5), limited to:

B. Public entertainment establishments, limited by the provisions of Sect. 406 below

67. Commercial recreation uses (Group 5), limited to:

A. Billiard and pool halls

- **Amend Sect. 6-406, Use Limitations, by adding a new Par. 13 to read as follows:**

13. A public entertainment establishment shall only be permitted when specifically identified on an approved development plan and shall be subject to the provisions of Sect. 9-534.

- **Amend the PTC Planned Tysons Corner Urban District as follows:**

- **Amend Sect. 6-502, Permitted Uses, by revising the introductory paragraph and adding new Paragraphs 4 and 6J to read as follows, deleting Paragraphs 7A and 7D, and relettering/renumbering the subsequent paragraphs accordingly.**

The following uses shall be permitted subject to the approval of a final development plan prepared in accordance ~~and~~ with the provisions of Article 16, and subject to the use limitations set forth in Sect. 505 below.

4. Banquet/Reception halls.

56. Commercial and industrial uses of special impact (Category 5), limited to:

J. Public entertainment establishments, limited by the provisions of Sect. 505 below

67. Commercial recreation uses (Group 5), limited to:

A. Billiard and pool halls

D. Dance halls

- **Amend Sect. 6-505, Use Limitations, by adding a new Par. 20 to read as follows:**

20. A public entertainment establishment shall only be permitted when specifically identified on an approved development plan and shall be subject to the provisions of Sect. 9-534.

Amend Article 7, Overlay District and Commercial Revitalization District Regulations, Part 4, Airport Noise Impact Overlay District, Noise Compatibility Table, by deleting the billiard and pool halls and dance halls entries and adding new banquet/reception halls and public entertainment establishments entries in their correct alphabetical sequence.

Uses	Noise Impact Areas (DNL dBA)		
	75+	70-75	65-70
Billiard and pool halls	P2	P3	P
Dance halls	NP	P3	P
<u>Banquet/Reception halls</u>	<u>P2</u>	<u>P3</u>	<u>P</u>
<u>Public entertainment establishments</u>	<u>P2</u>	<u>P3</u>	<u>P</u>

Amend Article 8, Special Permits, Part 5, Group 5 Commercial Recreation Uses, as follows:

- **Amend Sect. 8-501, Group 5 Special Permit Uses, by deleting Paragraphs 1 and 5**

~~4. Billiard and pool halls.~~

~~5. Dance halls.~~

- **Amend Sect. 8-502, Districts in Which Group 5 Uses May be Located, by revising the PDH, PDC, PRM and PTC entries in Par. 1 and by revising the C-3, C-4, C-5, C-6, C-7, C-8 and C-9 District entries in Par. 2 to read as follows:**

1. Group 5 uses may be permitted by right in the following districts:

PDH District: Limited to uses ~~1~~, 2, 4, 6, 8 and 9 when represented on an approved development plan

PDC District: Limited to uses ~~1~~, 2, 4, 6, 7, 8, 9 and 10 when represented on an approved development plan

PRM District: Limited to uses ~~1~~, 4, 6, indoor archery ranges, fencing and other similar indoor recreational uses, 8, 9, and 10 when represented on an approved development plan

PTC District: Limited to uses ~~1~~, 2, 4, ~~5~~, 6, indoor archery ranges, fencing and other similar indoor recreational uses, 8, 9 and 10 when represented on an approved development plan

2. Group 5 uses may be allowed by special permit in the following districts:

C-3, C-4 Districts: Limited to uses 2, 4, (outdoor), archery ranges, fencing, and other similar indoor recreational uses, 8 (indoor) and 9 (indoor)

C-5 District: Limited to uses ~~1~~, 4, (outdoor), archery ranges, fencing, and other similar recreational uses, 8 (indoor) and 9 (indoor)

C-6 District: Limited to uses ~~1~~, 2, 4 (outdoor), ~~5~~, 7, 8 (outdoor) and 9 (indoor and outdoor)

C-7, C-8 Districts: Limited to uses ~~1~~, 3, 4 (outdoor), ~~5~~, indoor firing ranges, 8 (outdoor), 9 (outdoor) and 10

C-9 District: Limited to uses ~~1~~, 2, 3, 4, ~~5~~, 7, 8 and 9

- Amend Article 9, Special Exceptions, Part 5, Category 5 Commercial and Industrial Uses of Special Impact, as follows:**

- **Amend Sect. 9-501, Category 5 Special Exception Uses, by adding new Paragraphs 44 and 45 to read as follows:**

44. Banquet/Reception halls.

45. Public entertainment establishments.

- **Amend Sect. 9-502, Districts in Which Category 5 Uses May be Located, by revising the PDC, PRC, PRM, PTC, C-7, C-8 and C-9 District entries in Par. 1 and the C-6, C-7, C-8 and C-9 entries in Par. 2 to read as follows:**

- 1
2 1. Category 5 uses may be permitted by right or as an accessory service use in the following
3 districts:

4
5 PDC District: Limited to uses 1, 2, 3, 6, 9, 10, 11, 14, 15, 17, 18, 20, 21, 22, 23, 25, 32,
6 33, 36, 38, 39, kennels (indoor), ~~and 43, 44 and 45~~ when represented on an approved
7 development plan

8 PRC District: Limited to uses 1, 2, 3, 6, 9, 11, 12, 14, 15, 17, 18, 20, 21, 22, 23, 25, 32,
9 33, 36, 37, 38, 39, kennels (indoor), 42, ~~and 43, 44 and 45~~ when represented on an
10 approved development plan

11 PRM District: Limited to uses 9, 11, 14, 17, 20, 22, 25, ~~and 32, 44 and 45~~ when
12 represented on an approved development plan

13 PTC District: Limited to uses 1, 3, 6, 9, 11, 12, 14, 16, 17, 18, 20, 21, 22, 23, 25, 29, 30,
14 33, 36, kennels (indoor), ~~and 43, 44 and 45~~ when represented on an approved
15 development plan

16
17 C-7 District: Limited to uses 1, 6, 9, 11, 12, 14, 17, 18, 20, 22, 23, 32, 36, kennels
18 (indoor), ~~and 43 and 44~~

19 C-8 District: Limited to uses 2, 6, 9, 11, 12, 14, 17, 18, 20, 22, 23, 26, 32, 36, kennels
20 (indoor), ~~and 43 and 44~~

21 C-9 District: Limited to uses 1, 6, 9, 11, 14, 17, 20, 22, 23, 32, 36, kennels (indoor),
22 ~~and 43 and 44~~

- 23
24 2. Category 5 uses may be allowed by special exception in the following districts:

25
26 C-6 District: Limited to uses 2, 3, 4, 6, 11, 14, 15, 17, 20, 21, 23, 25, 27, 30, 33, 34, 36,
27 37, 38, 39, ~~and 43, 44 and 45~~

28 C-7 District: Limited to uses 2, 3, 4, 6, 7, 8, 10, 11, 15, 17, 20, 21, 23, 25, 26, 27, 30,
29 33, 34, 36, 37, 38, 39, ~~and 43 and 45~~

30 C-8 District: Limited to uses 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 20, 21, 23, 24, 25, 27, 30,
31 33, 34, 36, 37, 38, 39, ~~and 43 and 45~~

32 C-9 District: Limited to uses 2, 3, 4, 6, 10, 11, 17, 18, 20, 21, 23, 25, 26, 27, 33, 36, 37,
33 ~~and 43 and 45~~

- 34
35 - **Add a new Sect. 9-534 to read as follows:**

36
37 **9-534 Additional Standards for Public Entertainment Establishments**

- 38
39 1. In the C-6, C-7, C-8, C-9, PDC, PRC, PRM, and PTC Districts, the Board may
40 approve a special exception to allow a public entertainment establishment provided
41 that the Board determines that a public entertainment establishment shall be
42 compatible with and not adversely impact adjacent properties and the neighboring
43 community. In order to ensure such compatibility and to mitigate adverse impacts,
44 the Board may impose conditions and restrictions as deemed necessary that may
45 include, but not limited to, the following:
46

- A. Hours of operation and other operational restrictions;
 - B. Site development or design standards;
 - C. Transitional screening and landscaping requirements;
 - D. Amount and location of parking;
 - E. Limitations on signage;
 - F. Limitations on outdoor lighting;
 - G. Ensuring that the building is adequately soundproofed and constructed so that there will be appropriate noise attenuation; and
 - H. Amount and type of outdoor activity.
2. A floor plan with dimensions shall be submitted with the application which shows the type and location of the entertainment activity; the number and location of seats, tables and counter/bar areas; and the location of kitchen, employee and other public areas.

Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking, Sect. 11-104, Minimum Required Spaces for Commercial and Related Uses, by revising Par. 23 and adding new Paragraphs 1 and 18 to read as follows, and renumbering the subsequent paragraphs accordingly.

Minimum off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

1. Banquet/Reception Hall:

One (1) space per two (2) persons based on maximum occupancy load, plus one (1) space per employee on the major shift, plus one (1) space per company vehicle

18. Public Entertainment Establishment:

One (1) space per two (2) persons based on maximum occupancy load, plus one (1) space per employee on the major shift

2325. Shopping Center:

- A. 100,000 square feet of gross floor area or less: Four and three-tenths (4.3) spaces per 1000 square feet of gross floor area

- 1 B. Greater than 100,000 but equal to or less than 400,000 square feet of gross floor area:
 2 Four (4) spaces per 1000 square feet of gross floor area
 3
 4 C. Greater than 400,000 but less than 1,000,000 square feet of gross floor area: Four and
 5 eight tenths (4.8) spaces per 1000 square feet of gross floor area
 6
 7 D. 1,000,000 square feet of gross floor area or more: Four (4) spaces per 1000 square feet
 8 of gross floor area
 9

10 For purposes of determining whether Par. A, B, C or D above is applicable, the size of the
 11 shopping center shall be based on the definition of gross floor area as set forth in Article 20,
 12 and shall be inclusive of any gross floor area devoted to offices, eating establishments, ~~and~~
 13 hotels, banquet/reception halls and public entertainment establishments. The gross floor area
 14 calculation as qualified in Sect. 102 above shall then be used to determine the required
 15 number of parking spaces.

16 The off-street parking requirement set forth above shall be applicable to all uses in a
 17 shopping center, except that the area occupied by offices, eating establishments, ~~and~~ hotels,
 18 banquet/reception halls and public entertainment establishments shall be parked in
 19 accordance with the applicable standards for such uses as set forth in this Section. For
 20 shopping centers subject to Par. A, B or C above, the area occupied by theaters shall be
 21 parked in accordance with the applicable shopping center requirement, provided that for
 22 theaters with more than 2000 seats, an additional three-tenths (0.3) space shall be provided
 23 for each seat above 2000 seats. For shopping centers subject to Par. D above, the area
 24 occupied by theaters shall be parked in accordance with the applicable shopping center
 25 requirement, provided that for theaters with more than 750 seats, an additional six (6) spaces
 26 shall be provided for each 100 seats above 750 seats.

27 In addition, for all shopping centers, stacking spaces as required by this Part shall be
 28 provided for those uses which have drive-in facilities.
 29
 30

31 **Amend Article 13, Landscaping and Screening, by revising the Transitional Screening and**
 32 **Barrier Matrix by adding banquet/reception halls and public entertainment establishments**
 33 **entries to Par. 9 in their proper alphabetical sequence.**
 34

35 9. Banquet/Reception halls

36
 37 Public entertainment establishments
 38
 39

40 **Amend Article 18, Administration, Amendments, Violations and Penalties, Part 7, Residential**
 41 **and Non-Residential Use Permits, Sect. 18-704, Minimum Requirements, by adding a new**
 42 **Par. 14 to read as follows:**
 43

44 The following minimum requirements shall be met prior to the issuance of a Residential or Non-
 45 Residential Use Permit:
 46

- 1 14. For eating establishments, a dimensioned floor plan showing the number and location of
- 2 seats, tables and counter/bar areas; the types and locations of accessory entertainment uses;
- 3 and the location of kitchen, employee and other public areas.

